

## **REMARKS**

Claims 1-11 are pending. Claim 11 has been withdrawn with traverse by the Applicants as being directed to non-elected subject matter.

The specification has been amended to correct typographical errors. Claims 1-10 have been amended. Support for the amendment to the claims can be found, for example, in original claims 1-10. No new matter has been added.

Applicants note with appreciation the statement in the Office Action that “[t]he claims are allowable over the prior art of record” (Office Action, p. 5, ¶ 5).

### **I. RESTRICTION REQUIREMENT**

A Restriction Requirement has been made in the present application. The Restriction Requirement identifies two groups:

- Group I. Claims 1-10, drawn to a compound used as a catalyst and the method of making it; and
- Group II: Claim 11, drawn to a method of making polyethylene.

A telephonic provisional election was made by Applicants with traverse on August 14, 2001 to prosecute the invention of Group I, claims 1-10. Applicants hereby confirm the election of Group I (claims 1-10), thus affirming the provisional election.

### **II. OBJECTION TO THE USE OF THE TERM “OLEFINE”**

The Office Action objects to the use of the term “olefine” in the disclosure (Office Action, page 3, lines 6-7). The title, specification, and Abstract have been amended to replace the terms “olefine” and “polyolefine” with the terms “olefin” and “polyolefin”, respectively. Therefore, Applicants request that the objection to the disclosure be withdrawn.

### **III. REJECTION OF CLAIMS 1-10 UNDER 35 U.S.C. § 112, SECOND PARAGRAPH**

Claims 1-10 have been rejected under 35 U.S.C. § 112 as allegedly being indefinite for the reasons provided in the Office Action on page 3, ¶ 7 - page 4, line ¶ 7.

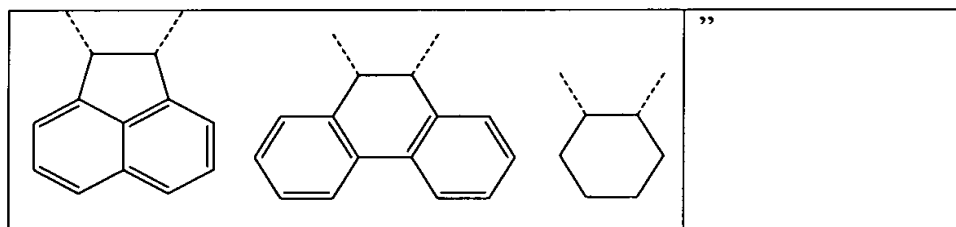
In particular, the Office Action states: “The term ‘Y’ in claims 1 and 10 is used by the claims to mean a ‘methylene group’ while the accepted meaning is ‘yttrium’” (Office Action, ¶ 7, page 3, lines 12-15). Claims 1-10 have been amended to replace the term

“Y” with the term “CR<sub>3</sub>CR<sub>4</sub>”. Therefore, Applicants submit that claims 1-10 are now definite.

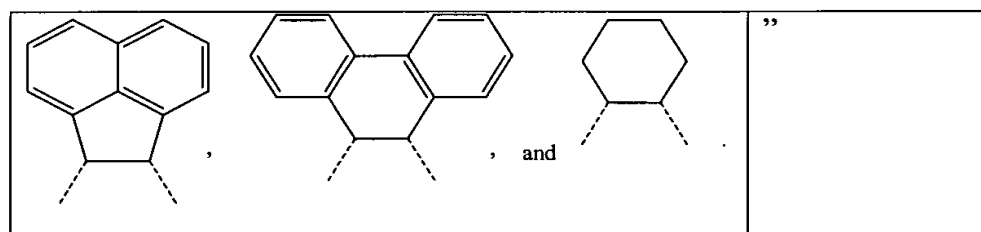
The Office Action states that all claims must end with a period. Claims 1-4 and 8-9 have been amended to include a period. Therefore, Applicants submit that claims 1-4 and 8-9 are now definite.

The Office Action alleges that claim 1 is not clear because the preamble of the claim recites a “[a] polynuclear  $\alpha$ -diimine Ni(II) complex” but the body of the claim allows for both n and m to be 0 (Office Action, ¶ 7, page 3, lines 17-18). The Office Action contends that the complex cannot be polynuclear if both m and n are 0. Claim 1 has been amended to replace the phrase “m and n is independently an integer from 0 to 100” with the phrase “m is an integer from 0 to 100, and n is an integer from 0 to 100; wherein at least one of m and n is not 0.” Therefore, Applicants submit that claim 1 is now definite.

The Office Action alleges that “it is not clear to what ‘or a mixture thereof’ [in claim 1] refers” and to “what part of these ‘residual groups’ are double-bonded to the imine nitrogen atoms” Office Action, ¶ 7, page 3 line 19 - page 4, line 2) Claim 1 has been amended to replace the phrase “Q is a cyclic divalent residual group of the following formula or a mixture thereof:



with the phrase “each Q is independently.



Therefore, Applicants submit that claim 1 is now definite.

The Office Action alleges that claim 2, which depends upon claim 1, only adds the limitation that n is 0, and questions “how this complex [of claim 2] can be polynuclear if one of the monomers [of claim 1] is not present at all” (Office Action, ¶ 7, page 4, lines 3-5). As noted above, claim 1 has been amended to replace the “m and n is

independently an integer from 0 to 100” with the phrase “m is an integer from 0 to 100 and n is an integer from 0 to 100, wherein one of m or n is not 0.” Therefore, Applicants submit that claim 2, which adds the limitation “m is an integer from 1 to 100, and n is 0” is now definite.

The Office Action has rejected claims 3-10 as allegedly containing prolix (Office Action, ¶ 7, page 4, lines 6-7, 12-13, 16-17 and 19-20). Claims 3-10 have been amended to remove any limitations that do not further narrow the scope of the dependent claims. Therefore, Applicants submit that claim 3-10, which do not contain prolix, are now allowable.

The Office Action suggested designating the two diketones of claim 10 with Roman numerals (Office Action, ¶ 7, page 4, lines 18-19). Claim 10 has been amended to include the Roman numerals “I” and “II” to designate the ketones.

The Office Action suggested removing the phrase “have the same definition in claim 1” (Office Action, ¶ 7, page 4, lines 19-20), which is recited after each of the structures shown in claim 10. Claim 10 has been amended to remove all recitations of the phrase “have the same definition in claim 1” and any terms previously recited in claim 1. In addition, the phrase “wherein Q, R<sub>1</sub>, R<sub>2</sub>, R<sub>3</sub>, R<sub>4</sub>, R<sub>5</sub>, R<sub>6</sub>, M, m and n are as defined in claim 1” has been added to the end of the claim. Therefore, Applicants submit that claim 10 is now definite.

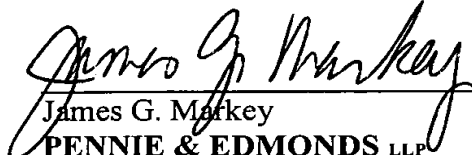
The Office Action requires replacing the term “forming” in the claims with the term “form.” Claims 1-6 and 8 have been amended to either delete the term “forming” from the claims, or replacing the term with “form.” The Office Action also requires replacing the verb “is” in the claims with the verb “are” when the recited structure requires the plural form of the verb. Claims 1-9 have been amended to either replace the verb “is” with the verb “are” or delete recitations using “is” in an the improper form. Therefore, Applicants submit that claims 1-9 are now definite.

IV. CONCLUSION

Applicants respectfully submit that the present claims are now in condition for allowance and request an early issuance of a Notice of Allowance in connection with the present application.

Date: December 9, 2003

Respectfully submitted,

  
James G. Markey 31,636  
PENNIE & EDMONDS LLP (Reg. No.)  
1155 Avenue of the Americas  
New York, New York 10036-2711

(212) 790-9090